



## Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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### FINAL MINUTES FOR TELECONFERENCE MEETING

Held at 12:00 Noon on November 10, 2004

9545 E. Doubletree Ranch Road • Scottsdale, Arizona

#### **Board Members**

Edward J. Schwager, M.D., Chair  
Sharon B. Megdal, Ph.D., Vice Chair  
Robert P. Goldfarb, M.D., Secretary  
Patrick N. Connell, M.D.  
Ingrid E. Haas, M.D.  
Tim B. Hunter, M.D.  
Becky Jordan  
Ram R. Krishna, M.D.  
Douglas D. Lee, M.D.  
William R. Martin III, M.D.  
Dona Pardo, Ph.D., R.N.  
Chris Wertheim

#### **Board Counsel**

Christine Cassetta, Assistant Attorney General

#### **Staff**

Barry A. Cassidy, Ph.D., P.A.-C, Executive Director  
Barbara Kane, Assistant Director  
Beatriz Garcia Stamps, M.D., M.B.A., Board Medical Director  
Gary Oglesby, Chief Information Officer  
Tina Speight, Public Affairs Coordinator  
Susan Ahn, Legal Coordinator

### CALL TO ORDER

Edward J. Schwager, M.D., Chair, called the meeting to order at 12:00 p.m.

### ROLL CALL

The following Board Members were present: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., William R. Martin, III, M.D., and Dona Pardo, Ph.D., R.N. The following Board Members arrived late to the meeting: Patrick N. Connell, M.D., and Douglas D. Lee, M.D. The following Board Member was not present at the meeting: Chris Wertheim

### CALL TO THE PUBLIC

Statements issued during the call to the public appear beneath the case referenced.

### NON-TIME SPECIFIC ITEMS

#### **Proposed Amendment to A.R.S. § 32-1451(I) to Add Authority for the Board to Order Continuing Medical Education as a Non-Disciplinary Action**

Christine Cassetta, Board Counsel, informed the Board that this language was drafted at the Board's request. She stated since that request, the Board's Lobbyist requested that the deadline to submission legislation to the Governor's Office be extended, but that request was denied, however this matter could be taken up at the next Legislative Session if the Board wishes to pursue this matter. Ms. Cassetta explained that the lobbyist informed her that the consensus was that

## NON-TIME SPECIFIC ITEMS (Continued)

matter may be best introduced by all healthcare Boards as a general amendment to Title 32 rather than as a stand-alone amendment to the Medical Practice Act. Barry A. Cassidy, Ph.D., P.A.-C, Executive Director, stated that the Governor's office has requested all legislation needs to go through their offices for approval as of last year and if pursued now it would put the Board in an uncomfortable position. Sharon B. Megdal, Ph.D., stated that this issue has been developing for several years. She does not see a problem with waiting another year.

**MOTION:** Sharon B. Megdal, Ph.D., moved to approve the language proposed for the amendment to A.R.S. § 32-1451(I) and to instruct the Board's lobbyist to introduce the measure at the appropriate time.

**SECONDED:** Dona Pardo, Ph.D., R.N.

**VOTE:** 11-yay, 0-nay, 0-abstain/recuse, 1-absent

**MOTION PASSED.**

### Hiring Committee Report regarding Executive Director Search & Consideration of Special Meeting on November 20, 2004, to Interview Candidates

Sharon B. Megdal, Ph.D., stated that four individuals have been identified to interview for the Executive Director position, with a possible fifth person if one of the four declines an interview invitation. Dr. Megdal stated that a schedule originally agreed upon for the Hiring Committee to interview candidates on November 18, 2004, and forward finalists to the full-Board for interviews on December 3, 2004. She stated that it might be more expeditious to combine these meetings into one meeting on November 20, 2004. Dr. Megdal stated that if the Board does one interview date, all four candidates will be considered final candidates and their names will be made available in response to a public records request. One of the candidates is from out of state and funding from the State is only provided for finalists and not preliminary candidates, therefore a single date might be preferred.

**MOTION:** Douglas D. Lee, M.D., moved to hold a meeting on November 20, 2004, to interview and make a potential decision regarding the new Executive Director.

**SECONDED:** Patrick N. Connell, M.D.

**VOTE:** 10-yay, 1-nay, 0-abstain/recuse, 1-absent

**MOTION PASSED.**

### Approval of Minutes

September 28, 2004, Summary Action Meeting - Keven D. Brockbank, M.D.

September 28, 2004, Summary Action Meeting - Walter L. Jacobs, M.D.

**MOTION:** Ram R. Krishna, M.D., moved to approve the minutes as written.

**SECONDED:** William R. Martin, III, M.D.

**VOTE:** 11-yay, 0-nay, 0-abstain/recuse, 1-absent

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
1.	MD-02-0424A	AMB	KERWIN J. LEBEIS, M.D.	16331	Letter of Reprimand for performing experimental protocols on patients without informed consent.

Becky Jordan recused herself from this matter.

Kerwin J. Lebeis, M.D., appeared before the Board at the call to the public. Dr. Lebeis stated that he underwent an evaluation at the Physicians Assessment and Clinical Education Program in San Diego, California, as ordered by the Board. He admitted that although he did very well in most areas, he did not do well with psychopharmacology. Dr. Lebeis expressed displeasure and stated that the Board's Order is now on his record and is affecting his ability to find a job. .

Christine Cassetta, Board Counsel, asked for clarification of the Board's intention regarding a probationary term. A probationary term was included in the voting software that captured the Board's vote, however, when she drafted the Order she used the transcript of the interview and the probationary term was never clearly added to the Board's motion. As such, the proposed Draft Order does not include the probationary term. She stated if the Board chooses, they could adopt the Probation into the motion today. Ms. Cassetta clarified for the Board Members that Dr. Lebeis has completed the training imposed from the September 2004 Interim Consent Agreement. Tim B. Hunter, M.D., stated that Dr. Lebeis is competent, does not need to be monitored further, and should not be on probation.

**NON-TIME SPECIFIC ITEMS (Continued) - KERWIN J. LEBEIS, M.D.**

**MOTION:** Tim B. Hunter, M.D., moved to accept the Draft Findings of Fact, Conclusions of Law, and Order as written.

**SECONDED:** William R. Martin, III, M.D.

**VOTE:** 10-yay, 0-nay, 1-abstain/recuse, 1-absent

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
2.	MD-02-0713A	AMB	HARA P. MISRA, M.D.	14933	Letter of Reprimand for an inadequate preoperative evaluation that compromised the patient's initial procedure.

Ram R. Krishna, M.D., recused himself from this matter.

Michael E. Bradford, Esq., appeared before the Board on behalf of Hara P. Misra, M.D. Mr. Bradford stated that he does not accept the proposition that the Board has jurisdiction based on a simple breach of the standard of care including the possibility of harm to the patient. Mr. Bradford referred to *Webb v. Board of Medical Examiners*. He stated the discussion of the standard of care was dicta and is not binding on the Board. He referred to the paragraph 22 of the Findings of Fact that states that the patient was subject to potential harm because she was deprived of a potentially better outcome. He asked the Board "what better outcome?" The patient was suffering from stage 3 Metastatic Carcinoma of the ovaries. Mr. Bradford stated that the patient lived longer and had a better life than reasonably expected after the procedure performed by Dr. Misra.

**MOTION:** Sharon B. Megdal, Ph.D., moved to accept the Draft Findings of Fact, Conclusions of Law, and Order as written.

**SECONDED:** Ingrid E. Haas, M.D.

**VOTE:** 10-yay, 0-nay, 1-abstain/recuse, 1-absent

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
3.	MD-00-0545	AMB	LEWIS M. SATLOFF, M.D.	17470	Modification of Board Order Denied.

Sharon B. Megdal, Ph.D., stated that the recommendation from the Monitored Aftercare Program (MAP) is to not modify the Order. Kathleen Muller, Monitored Aftercare Program Coordinator, stated that Dr. Satloff is currently practicing in California and has no plans to practice in Arizona, but he requested the modification in the event that happens. Michael Sucher, M.D., Monitored Aftercare Program Consultant, stated that when Dr. Satloff entered into the California Diversion Program it was confidential; therefore the hospitals were not notified. Hospital staff later found Dr. Satloff unconscious in the bathroom from an overdose. Dr. Satloff was then sent to long-term rehabilitation. At one time Dr. Satloff was planning to practice in Arizona and was put on the MAP program. Dr. Satloff remains in California, however he wanted the term requiring he meet with the Board prior to resuming practice removed from his order. Dr. Sucher stated that is not a reason to change the Board's Order as requested.

**MOTION:** Sharon B. Megdal, Ph.D., moved to deny the request for modification of Board Order.

**SECONDED:** Tim B. Hunter, M.D.

**VOTE:** 11-yay, 0-nay, 0-abstain/recuse, 1-absent

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
4.	MD-03-0305A	AMB	FRANK H. SNIPES, M.D.	20832	Modification of Board Order Granted. Practice Restriction Requiring Group Practice Removed. Respondent will provide the Board a 60-day written notice before practicing as other than a hospitalist.

Stephen Myers, Esq., appeared before the board at the call to the public on behalf of Dr. Snipes. Mr. Myers requested that the Board modify a practice restriction in Dr. Snipes' Board Order. He stated that Dr. Snipes' performance has been outstanding. Dr. Snipes has been denied privileges at certain hospitals because of this Board Order and these denials are jeopardizing his employment as a hospitalist. Currently the Order requires that Dr. Snipes practice in a "Group Setting." Mr. Myers stated that the request for modification would still protect the public because Dr. Snipes is in a group practice

**NON-TIME SPECIFIC ITEMS (Continued) - FRANK H. SNIPES, M.D.**

and would inform the Board if he decided to practice as other than a hospitalist. Mr. Myers stated that this change would assist with Dr. Snipes' rehabilitation.

Michael Sucher, M.D., Monitored Aftercare Program Consultant, stated that the request is to modify the Board's Order to remove "group setting" from the Order, however Dr. Snipes is a hospitalist, which is a "group setting." He stated that Dr. Snipes in a group setting and is doing very well with his recovery. This request does appear to keep the public safe and he supports the modification, but he recommends that the Board include a requirement that Dr. Snipes provide a 60-day written notice of his intention to practice as other than a hospitalist. Douglas D. Lee, M.D., clarified with Christine Cassetta, Board Counsel, that if the Board grants the modification, there would be no restrictions on Dr. Snipes' Order. Dr. Goldfarb asked Ms. Cassetta if with the modification hospitals and the public would know that Dr. Snipes cannot practice as other than a hospitalist without being in a group setting. Ms. Cassetta stated that the amendment to Dr. Snipes' order would make that requirement clear.

**MOTION: William R. Martin, III, M.D., moved to grant the modification of the Board Order and to include a 60-day written notice of Respondent's intention to practice as other than a hospitalist.**

**SECONDED: Ram R. Krishna, M.D.**

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
5.	MD-03-0266A	AMB	ROBERT A. ROSENBERG, M.D.	22637	Interim Consent Agreement. Pending the outcome of the Respondent's appeal of the Ontario Disciplinary Committee's March 21, 2003, action against him, Respondent shall not practice medicine under his Arizona medical license until he applies to the Board and affirmatively receives the Board's approval to return to practice.

The Board Members discussed the wording of the Interim Consent Agreement. Stephen Wolf, Assistant Attorney General, explained that this is an Interim Consent Agreement pending the results of the appeal with the Ontario Disciplinary Committee and the restriction on the medical license depends on those results. If the results of the appeal of the Ontario Disciplinary Committee were unfavorable, the case would go to Formal Hearing. Mr. Wolf stated that the type of language used in this agreement is necessary because Dr. Rosenberg could practice in Arizona and must seek the Board's approval to practice if he so wishes. Dr. Goldfarb noted a typographical correction was needed.

**MOTION: William R. Martin, III, M.D., moved to accept the Interim Consent Agreement with the typographical correction as noted.**

**SECONDED: Tim B. Hunter, M.D.**

**ROLL CALL VOTE** was taken and the following Board members voted in favor of the motion: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Patrick N. Connell, M.D., Robert P. Goldfarb, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., William R. Martin, III, M.D., and Dona Pardo, Ph.D., R.N.

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
6.	MD-04-L013A	AMB	PETER LAPIS, M.D.	N/A	Probationary license granted.

Robert P. Goldfarb, M.D., asked David Greenberg, M.D., Monitored Aftercare Program (MAP) Consultant, if he is comfortable with the treatment that Dr. Lapis received in Hungary. Dr. Greenberg stated that the treatment was appropriate and that Dr. Lapis also successfully completed treatment in the U.S. at Valley Hope. He also stated that both treatments were adequate and recommended that the Board consider issuing Dr. Lapis a Probationary license with MAP terms.

**MOTION: Robert P. Goldfarb, M.D., moved to approve proposed consent agreement as written.**

**SECONDED: Patrick N. Connell, M.D.**

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

**NON-TIME SPECIFIC ITEMS (Continued)**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
7.	MD-04-1038A MD-04-1131A	J.S. AMB	KEVEN D. BROCKBANK, M.D.	29044	Rescind Referral to Formal Hearing and accept the Proposed Consent Agreement that license number 29044, issued to Keven D. Brockbank, M.D., is surrendered; Respondent shall immediately return his license to the Board as a result of his unprofessional conduct, including (i) Failing to obtain and record a detailed patient and family history and perform a minimum physician examination consisting of recording blood pressure, weight, allergies, and a urinalysis prior to prescribing medications (narcotics) and failing to inform his patients of the risks and benefits of taking the medication; and (ii) Making sexual advances and comments of a sexual nature.

Ingrid E. Haas, M.D., excused herself from the meeting prior to the discussion of this case at 12:53 p.m. Ann-Marie Anderson, Assistant Attorney General, reviewed the details of this case with the Board.

**MOTION: William R. Martin, III, M.D., moved go into executive session at 12:57 p.m.**

**SECONDED: Ram R. Krishna, M.D.**

**VOTE: 10-yay, 0-nay, 0-abstain/recuse, 2-absent**

**MOTION PASSED.**

The Board returned from executive session at 1:10 p.m.

**MOTION: Tim B. Hunter, M.D., moved to rescind the referral to formal hearing and accept the proposed consent agreement.**

**SECONDED: Ram R. Krishna, M.D.**

**ROLL CALL VOTE** was taken and the following Board members voted in favor of the motion: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Patrick N. Connell, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., William R. Martin, III, M.D., and Dona Pardo, Ph.D., R.N. The following Board members were absent when this matter was considered: Ingrid E. Haas, M.D. The following Board members were absent from the meeting: Ingrid E. Haas, M.D.

**VOTE: 10-yay, 0-nay, 0-abstain/recuse, 2-absent**

**MOTION PASSED.**

The meeting adjourned at 1:15 p.m.

[Seal]

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Timothy C. Miller, J.D., Executive Director